STATE OF MICHIGAN

COURT OF APPEALS

DENISE L. HAGAR,

Plaintiff-Appellant,

v

BOWL ONE INC.,

Defendant-Appellee.

UNPUBLISHED
April 19, 2002

No. 230194
Oakland Circuit Court
LC No. 1999-019404-NZ

Before: K.F. Kelly, P.J., and Doctoroff and Cavanagh, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the circuit court's dismissal of her premises liability negligence action against defendant. The circuit court granted defendant summary disposition of plaintiff's claim under MCR 2.116(C)(10), finding that there was no genuine issue of material fact that any dangerous condition was caused by defendant's employees and that defendant's employees neither knew nor should have known of a dangerous condition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff argues that the evidence produced indicated that the damp spot on the approach was left as a result of defendant's employee's work in oiling the lane, so a genuine issue of material fact exists which would preclude summary disposition under MCR 2.116(C)(10). We disagree.

There was no dispute that plaintiff was defendant's business invitee at the time she slipped and fell. A business owner is liable to an invitee for injury resulting from an unsafe condition either (1) caused by the active negligence of himself or his employees, (2) actually known by himself or his employees, or (3) where he or his employees should have known of the unsafe condition. *Clark v Kmart Corp*, 465 Mich 416, 419; 634 NW2d 347 (2001).

There was no evidence that an unsafe condition on the lane approach was the result of the negligence of one of defendant's employees, defendant knew of the alleged dangerous condition, or defendant should have known of the alleged dangerous condition before plaintiff fell. The evidence before the circuit court merely showed that there was a damp spot on the sole of one of plaintiff's shoes and a similar damp spot on the floor in front of the foul line. While the damp spot on plaintiff's shoe could have been caused by a foreign substance on the floor, it is equally possible that the spot on the lane could have been caused by a foreign substance on plaintiff's shoe. Plaintiff's theory that the spot was oil negligently dripped on the approach by one of

defendant's employees is speculative. Plaintiff presented no evidence that the foreign substance was oil or that its presence was attributable to the negligence of one of defendant's employees. There was no evidence that defendant's employees knew or should have known of the alleged damp spot on the floor.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Martin M. Doctoroff
/s/ Mark J. Cavanagh